

**APPLICATION INSTRUCTIONS**  
**TITLE IV-E LEGAL REPRESENTATION OF PARENTS AND CHILDREN FOR CALENDAR**  
**YEAR 2020**

**Background:**

The purpose of the Title IV-E legal representation of parents and children program is to provide funding to counties to support high quality legal representation and help ensure a well-functioning child welfare legal process. Numerous studies and reports point to the importance of competent legal representation for parents and children in ensuring that salient information is conveyed to the court, parties' legal rights are protected and that the wishes of parties are effectively voiced. There is evidence to support that legal representation for children and parents contributes to or is associated with:

- Increases in party perceptions of fairness;
- Increases in party engagement in case planning, services and court hearings;
- More personally tailored and specific case plans and services;
- Increases in visitation and parenting time; and
- Cost savings to state government due to reductions of time children spend in care.

Under this program, federal IV-E funds are provided on a pass-through basis to counties to support their local courts provide representation for all parents and children in all stages of child welfare proceedings under Chapter 48. This instruction document provides information on the legal client representation program and instructions for counties to apply to participate.

**Requirements:**

Counties can apply to participate in the Title IV-E legal client representation program by submitting a plan and budget to DCF. As described below, the application must include:

- A proposed budget;
- An application that describes planned legal representation activities; and
- Agreement(s) between the human/social services department and the court system paying for representation to the clients, i.e. court appointed adversary counsel for parents and guardian ad litem for children, describing what services will be provided and the manner in which they will be provided.

Once applications are approved, DCF will issue a state/county contract addendum to county human/social service departments, which may subcontract with the court for legal representation. The DCF pass-through contract will continue in subsequent years, based upon the submission of updated annual plans and budgets.

**Counties are responsible for verifying that public expenditures are used as match and would be responsible for any resulting federal claiming disallowance.**

**Note:** *The Department can only provide reimbursement for claimed expenses that are not recouped from clients. Hence counties can only submit a budget and expenses for legal client representation of parents and children if no costs were recouped. Recouping costs on claimed expenditures would increase the administrative complexity as recouped expenses are NOT eligible for IV-E reimbursement and would increase the risk to the state in a Federal IV-E Audit.*

### **Claiming Match for IV-E Reimbursement:**

Under the Title IV-E legal client representation reimbursement program, expenditures for legal representation made with non-federal funds may be used as match to claim federal IV-E funds. DCF claims IV-E reimbursement based on expenditures reported by counties and passes through the IV-E reimbursement to the human/social services department. County expenditures for match may include legal client representation costs that are existing or new.

Courts may charge parents a fee to share in the cost of providing adversarial counsel representation for parents and GAL representation to children. Federal IV-E requirements specify that as a condition of accepting IV-E reimbursement for client legal representation, courts cannot claim reimbursement on costs that are then recouped from the clients as a fee for the cost of providing adversarial attorney or GAL representation. **If courts are currently charging parents fees for legal representation in Chapter 48 cases, the courts will need to stop charging fees to parents as a condition of participating in the IV-E legal client representation reimbursement program.**

Courts should review their budgets (Appendix A) to determine if the additional IV-E reimbursement will offset the loss of parent fee revenue and take the loss of parent fee revenue into account in determining whether to participate in the IV-E reimbursement program. Courts may continue to seek collection of fees imposed prior to participation in the IV-E reimbursement program, but cannot impose new fees on parents for the cost of legal representation.

### **Amount of IV-E Reimbursement:**

Title IV-E funds are earned on a reimbursement basis, so costs must first be incurred at the county level. There will be no prepayments. The amount of reimbursement is based on the actual amount of reimbursable costs, including match expenses, so the exact amount of IV-E funds that a county can receive will depend on local expenditures for client legal representation. Counties are advised to budget based on their best estimates of expenditures and report all applicable match expenses to maximize their IV-E reimbursement. If the amount of reimbursable costs exceeds the initial projections for the year, the IV-E reimbursement limit can be increased by DCF through a contract amendment, providing there is sufficient match and an amended application is submitted by the established amendment deadline. If the reimbursable costs are less than the initial projections, the IV-E reimbursement will be reduced accordingly.

In addition to changes in anticipated county service costs, the legal representation reimbursement rate may change due to changes in the state's actual federal Title IV-E reimbursement. If the IV-E client legal representation reimbursement rates will be changing for the next contract year, DCF will give counties advance notice. The amount of reimbursement provided during a contract year will remain fixed at the applicable rate, with adjustments to the net reimbursement rate made as necessary for subsequent contract years. If the IV-E client legal representation reimbursement rates will be changing for the next contract year, DCF will give counties advance notice. The amount of reimbursement provided during a contract year will remain fixed at the applicable rate, with adjustments to the net reimbursement rate made as necessary for subsequent contract years.

### **Allowable Child Welfare Legal Client Representation**

For purposes of the IV-E legal client representation reimbursement program, the following types of legal representation services under Chapter 48, Stats. may be used in determining the amount of attorney time, legal staff time and other expenses qualifying for IV-E reimbursement. While counties may have a

broad definition of child welfare cases for local program purposes, the IV-E legal client representation reimbursement program is limited to the following activities:

- Initial disposition and extension or revision of Child in Need of Protection or Services (CHIPS) orders;
- Placement of children in out-of-home care, including temporary physical custody, change of placement, revision, permanency, and extension hearings/orders;
- Voluntary placements of children into out-of-home care and conversion of voluntary placements to court-ordered placements;
- Termination of parental rights (TPR), including discovery activities for TPR and presenting TPR cases to the court;
- Establishing guardianship for children in out-of-home care under s. 48.977, Stats.

Within the broad types of legal services identified above, specific legal services may include: petitioning the court; court hearings on permanency plans; providing legal notice of hearings, meeting with parents and children to assess their needs and prepare for court hearings; issuing subpoenas; preparing legal briefs and orders; obtaining signed court orders; and appellate activities.

Legal services related to JIPS and Delinquency orders, juvenile probation, restitution, and placement of children in secure detention or juvenile corrections under Chapter 938, Stats., do not qualify for the legal representation reimbursement program. Juvenile justice activities are generally not IV-E reimbursable. In situations where legal actions under Chapter 48, including TPR, adoption, permanency plan hearings, and guardianship, are performed for juveniles subject to a Delinquency or JIPS order, the legal actions under Chapter 48 do qualify for the legal representation reimbursement program.

Criminal prosecution of persons charged with child abuse and neglect does not qualify for the IV-E reimbursement program. Attorneys who handle both criminal prosecutions and CHIPS petitions may only charge time associated with the CHIPS activity for IV-E reimbursement.

### **Allowable Legal Services Costs**

The following are examples of allowable costs for IV-E reimbursement:

- Costs for appointed legal representation for parents and children in child welfare cases.
- Costs associated with legal activities performed as part of the legal representation provided for parents and children in child welfare cases including filing fees, costs for expert witnesses, and transcription costs.
- Costs for travel associated with providing legal representation in child welfare cases.

### **Costs Not Allowed for IV-E Reimbursement**

Only legal staff that represent the parents or children involved in the child welfare cases may be included in the legal client representation reimbursement program. The IV-E reimbursement program **cannot** be used for the following costs:

- Judges, clerks of courts, or other court-related staff who may be involved in child welfare legal proceedings but who do not represent parents or children;
- State public defenders or attorneys appointed through the State Public Defender's Office;

- *The Legal Client Representation pass-through is limited to attorneys appointed by the court and paid for by the county. Attorneys paid for by the public defender should not be included in the county agreement. DCF is exploring an alternative IV-E claiming mechanism to provide IV-E reimbursement for representation provided by public defenders.*
- Court operating expenses and overhead;
- Child welfare staff and supervisory time; or
- Other direct services, such as mental health or psychological evaluations or witness testimony;
- Office operational expenditures. Cost categories such as insurance, professional dues, software, office supplies, phone, and internet are fixed expenditures that are the cost of doing business – the Department will not support requests for Title IV-E reimbursement for these costs.

The following costs **cannot** be used as match for legal services reimbursement:

- General administrative costs of court offices;
- General county administrative or overhead (AMSO) costs;
- Court fees and other fees paid by individuals involved in child welfare cases; or
- The purchase or rental of computers, vehicles or other equipment.

### SPARC Reporting

The revised program requirements now include a detailed cost reporting structure to allow DCF to monitor that specific types of costs are being reported in accordance with the amounts described on the Legal Client Representation Budget Application:

Contract Code - CHIPS	Line Codes - CHIPS	Contract Code - TPR	Line Codes - TPR	Line Code Descriptions
3564/9564	3564A	3584/9584	3584A	Representation Service Costs
	3584B		3584B	Legal Activities Costs

### Pass Through County Match

#### DCF SPARC Costs Crosswalk

Budget Application Program Component	SPARC Category
Court Appointed Adversary Counsel	Representation Service Costs
Guardian ad Litem	
Expert Witnesses	Legal Action Costs
Filing Fees	
Travel	
Mediation	
Transcription	
Translation	

Process Server Fees	
Mail/Postage	
Printing/Publication	

Counties should retain their own documentation of costs used as legal services match for local audit purposes.

### **Applications to DCF**

The county human/social services department must apply to participate in the legal representation of parents and children reimbursement program. Please note that this is different than the Legal Services Passthrough application, which needs to be submitted separately. Completed applications must include 1) budget information, 2) a program description, and 3) a copy of the signed agreement between the county department and the local court system paying for client representation. Applications will not be approved by DCF without a legal services agreement.

The budget sheet must identify the total amount of costs, the amount that will be claimed for IV-E reimbursement; and the amount and sources of match expenditures. The IV-E reimbursement is based on the total budget and will not be controlled by individual line items. The budget information will be used by DCF to set the IV-E reimbursement limit for the contract with the county. The amount of actual IV-E reimbursement will depend on the amount of allowable expenses reported to DCF.

Completed applications must be received by the last business day of the October prior to the beginning of the following CY contract period. Incomplete applications and applications received after this deadline will not be reviewed or approved. Applications will be reviewed by the Division of Safety and Permanence (DSP). Additional information may be requested if questions arise about the applications submitted by counties.

## Contracts

The State/County contract includes an appendix for the IV-E Legal Representation of Parents and Children reimbursement program. The appendix includes programmatic and reporting instructions only. Once the county has a DCF approved program and budget, an amendment setting a contract level will be issued. Updated budget sheets and program descriptions will be needed annually for contracts in subsequent years. Should the amount of legal representation expenses in a year exceed the projected amount originally used for that year's contract, a contract amendment will be needed to increase the reimbursement limit.

Contracts will be effective January 1<sup>st</sup> of the application calendar year, regardless of the date the county plan and budget are submitted. Allowable expenses for legal client representation already incurred are reimbursable on the effective date that the counties have agreements in place that meet the requirements for the legal representation reimbursement program. No IV-E reimbursement can be provided for legal representation until the agreement between the child welfare agency and the local court system has been finalized.

All reimbursement will be based on expenses reported to DCF through the SPARC system. Reimbursement will only be made for actual expenses incurred by counties and no contract advances will be made to counties for this program.

Since IV-E funds can only be claimed on a reimbursement basis, if counties do not claim the full amount authorized under their legal representation contract, there is no "carryover" of unused IV-E pass-through funds to the next year.

### New Applications:

To be approved by this Division, proposals from counties must include the following materials:

- A proposed **program budget** showing the total planned expenditures for the current calendar year and the legal client representation that will be provided under the IV-E reimbursement program. The budget must be consistent with the enclosed legal client reimbursement program instructions regarding allowable costs and be outlined on the enclosed fiscal worksheet format. The budget will be used to set the IV-E reimbursement limit for the contract.
- A signed and dated **legal representation program application** describing how the IV-E reimbursement will be used by the court system to support quality representation for parents and children and improved safety and permanency outcomes for children. The proposal must use the enclosed program plan format and include a signed assurance sheet.
- A **signed agreement** between the county human/social services department and the local court system paying for the representation of children and parents, laying out the plan for maintaining the necessary documentation (e.g., attorney billing statements, etc.), reporting expenses, and providing the IV-E funds to the circuit court.

The State/County contract includes an appendix with programmatic and reporting instruction for the legal client representation program. Once an application has been approved, the Department will process an amendment with the award for that year. For new applications, the amendment will be effective January 1<sup>st</sup> of each year, but reimbursable costs may only be incurred beginning with the effective date of the agreement between the child welfare services agency and the local courts system (the date the agreement is signed).

**Contacts:**

For questions regarding the legal client representation program, please contact the Division of Safety and Permanence (DSP) contact person listed below.

Applications about the legal services reimbursement program must be submitted (email preferred) to the DSP contact person listed below by **October 31<sup>st</sup>, 2019. Late applications will not be accepted.**

**CENTRAL OFFICE CONTACT**

Title IV-E Coordinator  
Division of Safety and Permanence  
201 E. Washington Ave.  
Madison, WI 53708-8916

Phone: 608-422-6198  
Email: [DCFIV-EProgram@wisconsin.gov](mailto:DCFIV-EProgram@wisconsin.gov)

## Appendix A: Cost Benefit Analysis

Title IV-E reimbursement for CHIPS and Out-of-Home Care (OHC) activities is set at **27%** and **38%** for TPR activities for calendar year **2020**. In order to streamline the claiming process counties/courts **cannot recoup claimed costs from the parents or other parties**. Recouped costs would require negative prior quarter adjustments:

*Example: A county reports \$100,000.00 in OHC representation costs for CY2020 and receives \$27,000.00 in reimbursement. If the county was allowed to recoup those client costs and received \$20,000.00, for IV-E purposes, the state would only be allowed to claim reimbursement on \$80,000.00. This means \$5,400.00 would have to be returned to the Feds ( $27,000 - (80,000 \times 27\%)$ ).*

Each county must make the decision to either pursue Title IV-E reimbursement or recoup client costs directly. In an effort to assist with this analysis, the chart below provides county specific recoupment data for guardian ad litem appointments in CY2018. Each county human/social services department should consult with the circuit court to obtain data on the costs and the recoupment for attorneys appointed for parents.

Reported Actual Costs and Recoupment of GAL Services During Calendar Year 2018			
County	Actual Guardian ad Litem Costs under Chapter 48 & 938	Recoupment of Guardian ad Litem Costs Under Chapters 48 & 938	Recoupment Percentage
Adams	13,784.57	1,046.82	7.59%
Ashland	16,776.20	4,338.26	25.86%
Barron	72,208.22	2,577.79	3.57%
Bayfield	12,430.00	5,305.00	42.68%
Brown	82,574.65	3,858.93	4.67%
Buffalo	13,082.98	478.00	3.65%
Burnett	15,228.80	2,415.96	15.86%
Calumet	6,965.00	0.00	0.00%
Chippewa	51,320.00	0.00	0.00%
Clark	19,969.99	0.00	0.00%
Columbia	40,317.05	22,608.69	56.08%
Crawford	3,124.40	3,405.88	109.01%
Dane	201,277.99	19,072.38	9.48%
Dodge	33,509.90	0.00	0.00%
Door	14,690.00	0.00	0.00%
Douglas	62,427.00	20,295.00	32.51%
Dunn	33,099.50	0.00	0.00%
Eau Claire	69,359.22	16,640.02	23.99%
Florence	4,720.75	0.00	0.00%
Fond du Lac	114,914.10	0.00	0.00%
Forest	22,848.55	258.25	1.13%



Grant	13,098.00	5,022.00	38.34%
Green	22,156.01	12,284.18	55.44%
Green Lake	13,142.75	10,671.28	81.20%
Iowa	10,796.00	4,253.00	39.39%
Iron	7,512.56	0.00	0.00%
Jackson	21,494.33	5,937.94	27.63%
Jefferson	43,916.83	20,734.99	47.21%
Juneau	100,786.00	0.00	0.00%
Kenosha	120,110.66	4,227.44	3.52%
Kewaunee	11,409.07	4,607.51	40.38%
La Crosse	265,787.10	0.00	0.00%
Lafayette	22,473.09	3,591.78	15.98%
Langlade	14,921.10	0.00	0.00%
Lincoln	34,353.50	15,417.79	44.88%
Manitowoc	55,922.04	105.00	0.19%
Marathon	69,579.00	14,468.00	20.79%
Marinette	39,444.82	9,716.79	24.63%
Marquette	1,944.67	2,274.31	116.95%
Menominee	0.00	0.00	0.00%
Milwaukee	1,647,537.00	23,478.00	1.43%
Monroe	85,836.27	0.00	0.00%
Oconto	34,792.89	639.01	1.84%
Oneida	36,993.19	0.00	0.00%
Outagamie	40,387.20	0.00	0.00%
Ozaukee	21,644.05	12,037.79	55.62%
Pepin	6,659.00	4,278.00	64.24%
Pierce	39,276.48	261.50	0.67%
Polk	42,086.21	2,499.21	5.94%
Portage	57,791.53	5,369.94	9.29%
Price	12,551.05	233.65	1.86%
Racine	72,094.81	29,641.42	41.11%
Richland	11,422.27	2,703.95	23.67%
Rock	58,593.85	1,904.87	3.25%
Rusk	15,658.78	45.50	0.29%
Sauk	31,132.44	19,730.60	63.38%
Sawyer	2,723.20	519.33	19.07%
Shawano	8,942.68	2,604.74	29.13%
Sheboygan	85,901.88	32,632.36	37.99%
St Croix	53,876.28	445.00	0.83%
Taylor	13,612.77	8,818.80	64.78%
Trempealeau	26,418.12	0.00	0.00%

Vernon	14,070.49	0.00	0.00%
Vilas	11,510.37	0.00	0.00%
Walworth	0.00	0.00	0.00%
Washburn	12,888.75	0.00	0.00%
Washington	51,930.81	22,806.01	43.92%
Waukesha	289,857.00	138,329.00	47.72%
Waupaca	26,409.97	0.00	0.00%
Waushara	3,901.40	2,000.25	51.27%
Winnebago	138,309.00	0.00	0.00%
Wood	45,380.00	1,648.36	3.63%
<b>Total</b>	<b>\$4,773,666.14</b>	<b>\$528,240.28</b>	<b>11.07%</b>